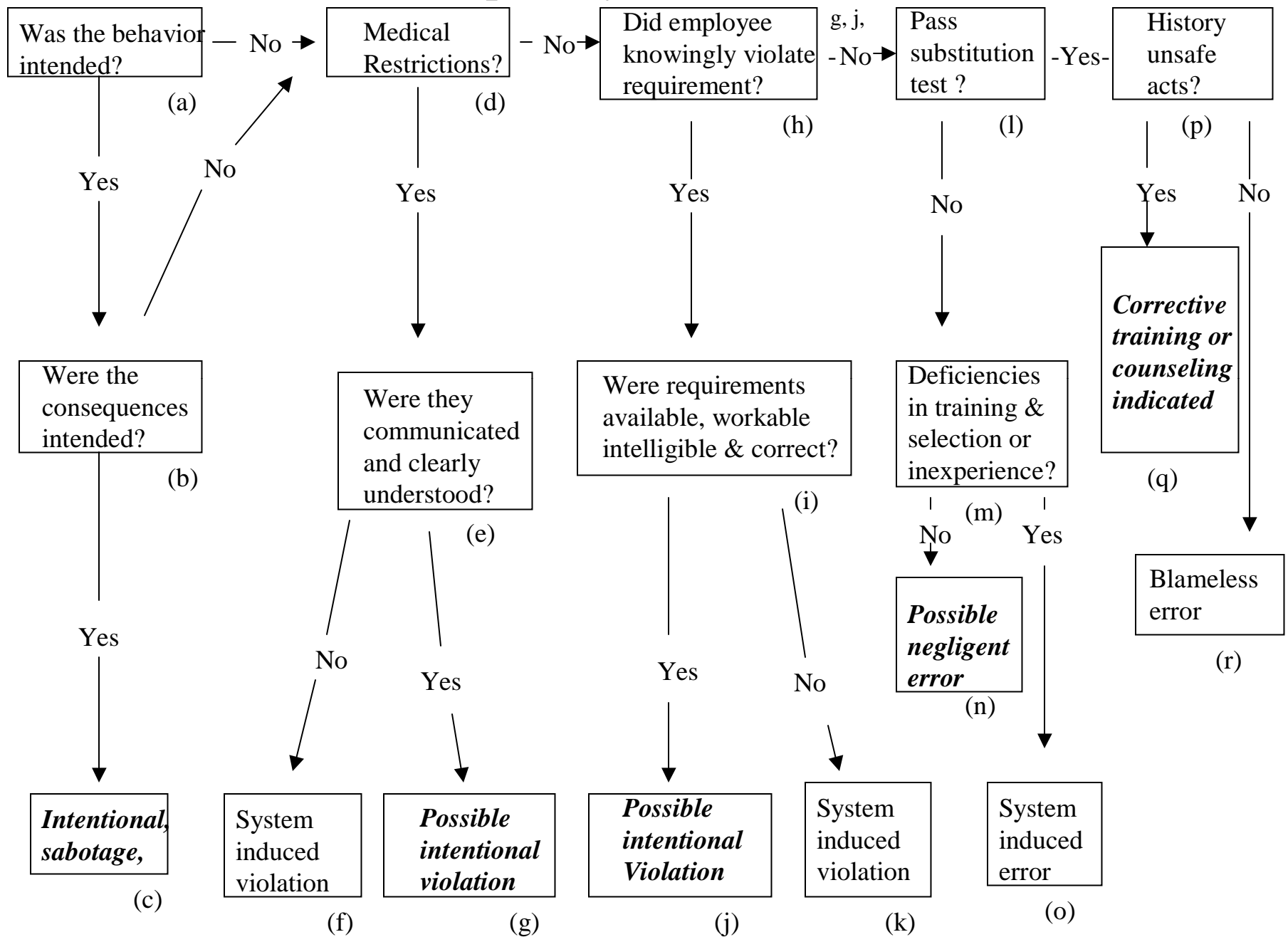


Culpability Decision Tree



ATTACHMENT B – CULPABILITY DECISION TREE (DOE HPI Volume 1)

Start with the assumption that the actions under scrutiny have contributed either to an accident or to a serious near-miss in which a bad outcome was only just averted. In an organizational accident, there are likely to be a number of different unsafe acts. The decision tree should be applied separately to each of them. The concern here is with individual unsafe acts committed by either a single person or by different people at various points in the accident sequence. Because of the subjectivity of the questions the Decision Tree should be used by a small team or committee, not by a single manager or supervisor.

The questions of the inquiry relate primarily to intention. Unintended actions define slips and lapses, in general, the least blameworthy of errors. Unintended consequences cover mistakes and violations. The decision tree usually treats the various error types in the same way, except with regard to the violations question.

Start at the top left box on the logic diagram. The numbers below relate to the boxes left to right

Were the actions as intended? The key questions relate primarily to intention. If both the actions and the consequences were intended, then we are likely to be in the realm of criminal behavior, which is probably beyond the scope of the organization to deal with internally. Unintended actions define slips and lapses—in general, the least blameworthy of errors—while unintended consequences cover mistakes and violations.

- 1. Knowingly violating expectations?** If the individual was knowingly engaged in violating expectations at that time, then the resulting error is more culpable since it should have been realized that violating increases both the likelihood of making an error and the chances of bad consequences resulting. Violations involve a conscious decision on the part of the perpetrator to break or bend the rules (except when noncompliance has become a largely automatic way of working). Although the actions may be deliberate, the possible bad consequences are not—in contrast to sabotage in which both the act and the consequences are intended. Most violations will be non-malevolent in terms of intent; therefore, the degree to which they are blameworthy will depend largely on the quality and availability of the relevant procedures.

Procedures are not always appropriate for the particular situation. Where this is judged to be the case (perhaps by a “jury” of the perpetrator’s peers), the problem lies more with the system than with the individual. But, when good procedures are readily accessible but deliberately violated, the question then arises as to whether the behavior was reckless in the legal sense of the term. Such actions are clearly more culpable than “necessary” violations—the non-compliant actions necessary to get the job done when the relevant procedures are wrong or inappropriate or unworkable.

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2. **Passes the substitution test?** The “substitution test,” or something similar, is used to help in judging the culpability of organizationally induced violations. Could some well-motivated, equally competent, and similarly qualified individual make the same kind of error under those or very similar circumstances? If the answer provided by a jury of peers is “yes,” then the error is probably blameless. If the answer is “no,” then we have to consider whether there were any system-induced deficiencies in the person’s training, selection, or experience. If such latent conditions are not identified, then the possibility of a negligent error has to be considered. If they are found, it is likely that the unsafe act was a largely blameless system-induced error.
3. **History of performance problems?** Keep in mind that people vary widely and consistently in their liability to everyday slips and lapses. Some individuals, for example, are considerably more absentminded than others. If the person in question has a previous history of unsafe acts, it does not necessarily bear upon the culpability of the error committed on this particular occasion, but it does indicate the necessity for corrective training or even career counseling along the lines of “Don’t you think you would be doing everyone a favor if you considered taking on some other job within the company?” Although absentmindedness has nothing at all to do with ability or intelligence, it is not a desirable trait in a pilot, a control room operator, a physician, or the like.

The line between acceptable and unacceptable behavior is more clear when the logic diagram is used. An intentional act to cause harm (lower left) is wholly unacceptable and should receive very severe sanctions, possibly administered by the courts rather than the organization. Knowingly violating expectations that were workable likely suggests reckless violation, a condition that warrants sanctions. The remaining categories should be thought of as blameless—unless they involve aggravating factors not considered here. Experience suggests that the majority of unsafe acts—perhaps 90 percent or more—fall into the blameless category.